

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

DANNY J. HICKS,

Plaintiff

VS.

JOE FERRERO, *et al.*,

Defendants

NO. 5: 03-CV-307 (DF)

PROCEEDINGS UNDER 42 U.S.C. §1983  
BEFORE THE U. S. MAGISTRATE JUDGE

**ORDER DENYING APPOINTMENT OF COUNSEL**

Plaintiff herein has, for the second time,<sup>1</sup> has requested this court to provide legal representation for him in the above- captioned proceeding (Tab #109). Generally a right to counsel does not exist in §1983 actions. *Wahl v. McIver*, 773 F.2d 1169, 1174 (11<sup>th</sup> Cir. 1985); *Hardwick v. Ault*, 517 F.2d 295, 298 (5<sup>th</sup> Cir. 1975); *Meckdeci v. Merrell National Laboratories*, 711 F.2d 1510, 1522 n.19 (11<sup>th</sup> Cir. 1983); it is a privilege that is justified only by exceptional circumstances. *Lopez v. Reyes*, 692 F.2d 15, 17 (5<sup>th</sup> Cir. 1982); *Branch v. Cole*, 686 F.2d 264, 266 (5<sup>th</sup> Cir.1982); *Ulmer v. Chancellor*, 691 F.2d 209 (5<sup>th</sup> Cir. 1982).

In deciding whether legal counsel should be provided, the court typically considers, among other factors, the merits of the plaintiff's claim and the complexity of the issues presented. *See Holt v. Ford*, 862 F.2d 850, 853 (11<sup>th</sup> Cir. 1989). Based on the facts and legal doctrine present and the plaintiff's vigorous litigation of the case on his own behalf, applying the standards set forth in *Ulmer, supra*, it appears that at the present time, the plaintiff is still without need of court-appointed legal counsel. The court on its own motion will consider assisting plaintiff in securing legal counsel if and when it becomes apparent that legal assistance is required in order to avoid prejudice to his rights.

Accordingly, plaintiff's motion for appointment of legal counsel (Tab #109) is **DENIED**.

SO ORDERED, this 14<sup>th</sup> day of APRIL, 2006.



A handwritten signature in blue ink, reading "Claude W. Hicks, Jr.".

CLAUDE W. HICKS, JR.  
UNITED STATES MAGISTRATE JUDGE

<sup>1</sup> The plaintiff's first Motion to Appoint Counsel (Tab #6) was denied as being premature on May 24, 2004 (Tab #19)